



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, मंगलवार, 7 अगस्त, 1973/16 श्रावण, 1895

GOVERNMENT OF HIMACHAL PRADESH

ELECTION DEPARTMENT

NOTIFICATION

Simla-2, the 25th July, 1973

No. 7-4/73-Elec.—In supersession of Notification No. 4-5/70-Elec., dated the 7th December, 1970, and in exercise of the powers conferred by section 163 of the Himachal Pradesh Panchayati Raj Act, 1968 (Act No. 19 of 1970), the Governor, Himachal Pradesh is pleased to make the following rules entitled as the Himachal Pradesh Panchayat Samitis (Election) Rules, 1973, the same having been previously published in the official gazette.

RULES

PART I

1. (1) These rules shall be called the Himachal Pradesh Panchayat Samitis (Election) Rules, 1973.

(2) They shall come into force at once.

2. (1) In these rules, unless there is anything repugnant in the subject or context:—

(a) "Act" means the Himachal Pradesh Panchayati Raj Act, 1968;

(b) "authorised officer" means any person authorised by the Deputy Commissioner for the purposes of these rules;

(c) "Constituency" means a ward consisting of one Gram Panchayat or a group of Gram Panchayats determined for election of Primary Members of a Panchayat Samiti;

(d) "Director of Elections (Local Bodies)" means any person who is appointed by the State Government to perform the functions of Director of Elections (Local Bodies) for the purposes of these rules;

(e) "Election Agent" means any person appointed in writing by a candidate at an election to be his Election Agent for the purposes of these rules with the written consent of such person;

(f) "election" means the election of a primary member including that of Chairman and Vice-Chairman of a Panchayat Samiti;

(g) "elector" means a Panch of a Gram Panchayat elected or co-opted including Pradhan and Up-Pradhan, whose name is entered in the electoral roll prepared for elections of Panchayat Samitis;

(h) "electoral roll" means the electoral roll prepared for holding election to Panchayat Samitis;

(i) "Form" means the forms appended to these rules;

(j) "polling personnel" means the person or persons appointed to conduct or to assist in the conduct of election; and

(k) "Returning Officer" means an officer appointed for the conduct of election and includes the Assistant Returning Officer.

(2) Words and expressions used but not defined in these rules shall have the meaning assigned to them in the Act.

PART II

DELIMITATION OF CONSTITUENCIES (WARDS) AND PREPARATION OF ELECTORAL ROLLS OF PANCHAYAT SAMITIS

3. (1) As soon as the notification of the constitution of a Panchayat Samiti is issued under section 61(1) of Himachal Pradesh Panchayati Raj Act, 1968, the Deputy Commissioner shall divide the Gram Panchayats of a block into constituencies for election of 20 members for a Panchayat Samiti. Each constituency shall have one or more Gram Panchayats as a whole for electing one or more than one primary members from a Gram Panchayat or a group of Gram Panchayats. The number of primary members to be elected from a constituency shall be determined on an average by dividing the total number of seats of the elected members of all the Gram Panchayats in a block by 20, which has already been fixed on the basis of population. The average number so calculated shall be kept into account while dividing

all the Gram Sabhas in a Panchayat Samiti into constituencies for electing 20 primary members. As far as practicable one or more primary member shall be elected from one constituency on the basis of average number so calculated and in exceptional circumstances where it is not possible to stick exactly to the average number so calculated; a constituency shall be delimited after ignoring minor differences on the lower side as well as on the higher side :

Provided that while forming the constituencies in the manner so prescribed, the contiguity of the jurisdictional area of Panchayats shall be maintained.

(2) The Deputy Commissioner shall publish an order of the delimitation of constituencies of a block by affixing a copy thereof at the headquarters of the Block, Gram Panchayat or Gram Panchayats concerned. The order so published by the Deputy Commissioner shall be final and no objections/suggestions in this regard will be entertained.

4. The electoral roll in respect of a constituency of a Panchayat Samiti shall be prepared in the Form-I under the directions of the Deputy Commissioner, which shall be in Hindi and Devnagri script. The electoral roll so prepared shall be authenticated by the Deputy Commissioner or any other officer appointed by him in writing in this behalf.

5. A copy of the electoral roll of a constituency of a Panchayat Samiti duly authenticated by the Deputy Commissioner or any other officer authorised by him in writing, shall be kept at the office of the respective Block and at the office of the respective Gram Panchayat or Panchayats for inspection, immediately, after the date of issue of the notice of election programme and upto the date of poll. No fee for such an inspection of the electoral roll will be charged during this period from the public:

Provided that the electoral roll of the constituency of a Panchayat Samiti shall be available for inspection to the public on any working day from 11 A.M. to 3 P.M.

6. The copies of the constituency-wise electoral roll including the authenticated set of electoral roll of all the constituencies of a Panchayat Samiti referred to in rule 5, other than the copies of the electoral roll which have been used at the polling station, shall be kept in the custody of the Deputy Commissioner or any other person authorised by him for this purpose. Such papers shall be retained for a period of one year and shall be disposed of under the orders of the Deputy Commissioner, thereafter as waste papers :

Provided that copies of the authenticated constituency-wise electoral roll shall not be disposed of till the election petitions of the respective Panchayat Samiti, if any, are finally decided :

Provided further that one set of the authenticated electoral roll of each constituency of a Panchayat Samiti shall be retained by the Deputy Commissioner or any other officer authorised by him in this behalf till the next election of the Panchayat Samitis is held.

PART III

ELECTION TO PANCHAYAT SAMITIS

7. The Director of Elections (Local Bodies) shall, specify, by notification in the official Gazette, the symbols for allotment in the election:

Provided that no symbol which has been prescribed by the Election Commission of India shall be specified in the notification of symbols for election under these rules.

8. (1) The Dputy Commissioner shall provide for election, one or more polling stations for each constituency of a Panchayat Samiti. A list specifying the Polling Stations alongwith the number of voters assigned to each such polling station in a constituency of the Panchayat Samiti shall be kept for free inspection in the office of the respective Block and Gram Panchayat or Panchayats on any working day between the hours of 11 A.M. and 3 P.M. from the date of issue of Notice of Election Programme and upto the date of poll. No person other than the voters assigned to a particular polling station shall be permitted to cast his vote at such a polling station:

Provided that no polling station should be located in a police station, hospital, temple and a place having religious significance.

(2) The limits of the polling station shall be the place specified for the purpose and 100 metres radius around it.

9. The Deputy Commissioner shall appoint a Returning Officer for the conduct of election in respect of each constituency of a Panchayat Samiti. The Deputy Commissioner may also appoint one or more Assistant Returning Officers who shall assist the Returning Officer in his duties in connection with the election. The Assistant Returning Officer may perform all or any of the duties of the Returning Officer:

Provided that nothing in this rule shall prevent the appointment of the same person as Returning/Assistant Returning Officer for more than one constituency of a Panchayat Samiti:

Provided further that nothing in this rule shall prevent the same person to act as Presiding Officer, if necessary.

10. (1) The Deputy Commissioner or any other officer authorised by him for this purpose, in writing, shall appoint one Presiding Officer and the required number of Polling Officers for each polling station of a constituency of a Panchayat Samiti.

(2) If a person appointed to perform the duties of a Polling Officer at a polling station is found absent or refuses to act or becomes incapable of acting, before or during the time of poll, the Presiding Officer shall appoint any other person who is not an elector for the Panchayat Samiti and available at the polling station to act as Polling Officer:

Provided that the Presiding Officer before appointing such a person shall satisfy himself that the person has no relation or connection with any of the contesting candidates.

(3) The Presiding Officer shall, in addition to performing duties imposed upon him by these rules, be in general charge of all arrangements at the polling station and may issue orders as to the manner in which the persons shall be admitted to it and generally for the preservation of peace and order

at or in the vicinity of the polling station. It shall be the duty of each Polling Officer at a polling station to assist the Presiding Officer in the performance of his functions.

11. The Government shall issue a notification calling upon the constituencies to elect primary member or members to a Panchayat Samiti or Samitis and prescribing therein a date before which the election shall be completed.

Notification of election.

12. (1) As soon as a notification under rule 11 is issued by the Government the Deputy Commissioner shall take necessary steps to hold the election and frame a programme for such an election specifying the date, time and place for—

Election programme.

- (i) the filing of nomination papers;
- (ii) the scrutiny of nomination papers;
- (iii) the withdrawal of candidatures;
- (iv) the list of contesting candidates to be affixed;
- (v) the poll to be held, which shall not be less than 3 hours;
- (vi) the counting of votes; and
- (vii) the declaration of result of election.

(2) The election programme, in Form II, shall be published not less than 10 days before the first date specified in the election programme by pasting a copy of it at the office of the Deputy Commissioner, Tehsil Office, Block Office, office of the Gram Panchayat or Panchayats and at such other conspicuous places in the respective block as the Deputy Commissioner may deem fit.

(3) The Deputy Commissioner may, by an order, amend, vary or modify the election programme, at any time provided that, unless the Government directs otherwise, no such order shall invalidate any proceeding already taken before the date of such an order.

(4) The filing and scrutiny of nomination papers as also the withdrawal of candidatures shall be done in accordance with the programme notified by the Deputy Commissioner under sub-rule (1):

Provided that the nomination paper or the notice of withdrawal shall be delivered at the place and on the day and hours fixed for the purpose:

Provided further that no nomination paper or notice of withdrawal shall be delivered on a public holiday and by any person other than the candidate or his proposer to the Returning Officer/Assistant Returning Officer, as may be specified.

13. (1) Any person, who is not disqualified under section 64 of the Act and is an elector of any constituency of the Panchayat Samiti, may be nominated as a candidate for election as primary member; provided that on the date, time and place fixed under rule 12, he or his proposer delivers in person to the Returning Officer/Assistant Returning Officer, nomination paper completed in the prescribed form.

Nomination of candidates.

(2) The nomination of each candidate shall be made on a separate nomination paper in Form III and must be signed by the proposer who shall be an elector of the constituency for which the nomination paper is being filed and subscribed by the candidate himself as assenting to the nomination:

Provided that a candidate shall not file more than 4 nomination papers or election in a constituency in the Panchayat Samiti:

Provided further that a candidate belonging to a Scheduled Caste/Scheduled Tribe shall furnish a declaration to the Returning Officer/Assistant Returning Officer of the particular caste or tribe to which he belongs.

Deposits,
return and
forfeiture
of security.

14. (1) Each candidate nominated under the provision of rule 13 shall, at or before the time of delivery of his nomination paper, deposit or cause to be deposited a sum of Rs. 30 and in the case of a Scheduled Caste or Scheduled Tribe candidate, a sum of Rs. 15 with the Returning Officer/Assistant Returning Officer, in cash and no candidate shall be deemed to be duly nominated unless such deposit has been made:

Provided that where a candidate has been nominated by more than one nomination paper for election in a constituency, not more than one deposit shall be required from him under this rule.

(2) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made, is not elected and the number of votes polled by him is less than $1/6$ of the total number of valid votes polled divided by number of seats in the constituency, the deposit shall be forfeited to the Government.

(3)(a) The deposit in the following cases shall, by an order in writing of the Returning Officer/Assistant Returning Officer, be returned to the candidate or where he is dead, to his legal representative—

- (i) where the nomination paper of the candidate has been rejected; or
- (ii) where the candidate has withdrawn his candidature within the specified time; or
- (iii) where the candidate has died before the commencement of the poll.

(b) The deposit in the following cases will be returned by the Deputy Commissioner or any other officer authorised by him in writing, after the declaration of result of election—

- (i) where the candidate, though not elected, does not forfeit his deposit under sub-rule (2);
- (ii) where the candidate is elected.

(4) The Returning Officer/Assistant Returning Officer, immediately, after the date of withdrawal, shall deposit or cause to be deposited with the Deputy Commissioner or any other officer authorised by him for this purpose, the amount received by him as securities alongwith an account showing the candidate-wise details of total securities deposited with him, amount refunded after withdrawal of candidature and the balance unclaimed:

Provided that in case of un-claimed securities the refund shall be permitted by the Deputy Commissioner or person authorised by him, on an application made to him by the candidate, supported by the original receipt issued by the Returning Officer/Assistant Returning Officer.

Scrutiny of
nomination
papers.

15. (1) The Returning Officer/Assistant Returning Officer shall examine the nomination papers at the time appointed in this behalf, hear objections, if any, presented by the objectors in person to the eligibility of any candidate and decide these objections after such enquiry as he may consider necessary. The decision rejecting or accepting a nomination paper and a brief statement of the reasons of rejection shall be endorsed on the nomination paper and signed by the Returning Officer/Assistant Returning Officer:

Provided that the Returning Officer/Assistant Returning Officer may—

- (a) permit any clerical error in the nomination paper in regard to names or numbers to be corrected in order to bring them in conformity with the corresponding entries in the electoral roll; and
- (b) where necessary, direct that any clerical or printing error in the said entries shall be overlooked.

(2) The person objecting under sub-rule (1) must be an elector of the Panchayat Samiti.

(3) The Returning Officer/Assistant Returning Officer shall reject the nomination paper on the following grounds:—

- (i) If the nomination paper has not been signed by a proposer or the proposer was not an elector of the constituency in accordance with rule 13(2) at the time of scrutiny of the nomination paper.
- (ii) If the nomination paper is not assented by the candidate or the signature of the candidate is not genuine.
- (iii) If the provisions of rules 12 to 14 of these rules have not been complied with:

Provided that no nomination paper will be rejected where the candidate has either left blank the column of electoral roll number or has recorded incorrect number therein. The Returning Officer/Assistant Returning Officer after being satisfied shall fill in or correct the number of the electoral roll in the nomination paper as the case may be, with reference to the electoral roll of the constituency:

Provided further that no person except the candidate, his proposer and one other person duly authorised, in writing, by the candidate shall be permitted by the Returning Officer/Assistant Returning Officer to attend the scrutiny of nomination papers on the date, place and time specified in the election programme.

Explanation.—For the purposes of these rules a person who is unable to write his name shall be deemed to have signed an instrument or any other paper if he has placed his thumb-impression on such instrument or paper in the presence of the Returning Officer/Assistant Returning Officer. Such an officer, on being satisfied as to his identity, shall attest the thumb impression of that person.

16. (1) Any candidate may withdraw his nomination by a notice in writing in Form IV, which shall be subscribed by him and delivered in person by the candidate or his proposer duly authorised by the candidate in writing to the Returning Officer/Assistant Returning Officer before the expiry of the time allowed for the withdrawal of candidatures.

(2) No person who has given a notice of withdrawal under sub-rule (1) shall be allowed to cancel it.

17. (1) The Returning Officer/Assistant Returning Officer, after the expiry of time fixed for withdrawal of candidature, shall prepare the list of contesting candidates in Form V in alphabetical order in 'Hindi' in Devnagri script showing the addresses of the contesting candidates as given in the nomination papers.

(2) After the list of contesting candidates is prepared and the number of candidates is more than the number of seats, for which election is to be held the Returning Officer/Assistant Returning Officer shall allot one symbol according to the serial numbers in the list of contesting candidates, out of the approved symbols, in accordance with the serial number of such symbols prescribed in the notification under rule 7. No candidate shall be given a choice to select his own symbol.

Withdrawal of candidature.

List of contesting candidates and allotment of symbols.

(3) Immediately, after the allotment of symbols to the contesting candidates, the Returning Officer/Assistant Returning Officer shall publish by pasting a copy of such list outside his office.

Declaration of result in uncontested elections.

18. If the number of contesting candidate or candidates in a constituency is equal or less in number of the seats to be filled in, such a candidate or candidates shall be deemed to have been elected from that constituency and the declaration of result shall be made, immediately, after the time fixed for withdrawal of candidature in Form VI, a copy of which shall be pasted outside his office. In a case where for a constituency no nomination paper has been filed or no validly nominated candidate or candidates exist to fill the seat or seats in the constituency the Deputy Commissioner shall prepare another election programme in the constituency under rule 12 for filling up such vacancy or vacancies.

Death of a candidate before poll.

19. If a contesting candidate dies and a report of his death is received by the Returning Officer/Assistant Returning Officer before the commencement of the poll, the Returning Officer/Assistant Returning Officer shall countermand the poll in the constituency and report the fact to the Deputy Commissioner and all proceedings with reference to the election shall be commenced afresh in all respects as if for a new election:

Provided that no fresh nomination shall be necessary in the case of a candidate or candidates whose name or names is or are entered in the list of contesting candidates published under rule 17.

Method of voting.

20. At every election where a poll is taken, voting shall be by secret ballot and under the balloting system of voting:

Provided that votes shall be cast in person and shall not be received by proxy.

Ballot papers.

21. (1) Every ballot paper at an election shall be of such design as the Director of Elections (Local Bodies) may prescribe.

(2) The required number of ballot papers to each Presiding Officer appointed for a polling station shall be supplied against proper receipt and a proper account of the ballot papers so issued shall be kept.

(3) The Presiding Officer shall keep an account of the ballot papers supplied to him for use at the polling station in Form VII.

Material to be supplied at each polling station.

22. The Deputy Commissioner shall provide for each polling station of a constituency:—

- (i) sufficient number of ballot boxes;
- (ii) polling station-wise required number of ballot papers;
- (iii) three copies of the electoral roll pertaining to the polling station;
- (iv) presiding officer's seal; and
- (v) other election material required at the polling station.

Type of ballot box.

23. A Godrej type of ballot box shall be used for election under these rules.

Appointment and Revocation of Election Agents.

24. (1) A candidate may appoint any person as his election agent, in writing, with the consent of the person so appointed by him, to work on his behalf as his election agent during polling and counting of votes and shall give a notice of such appointment to the Returning Officer/Assistant Returning Officer or Presiding Officers as the case may be:

Provided that not more than one election agent for a polling station shall be appointed by the candidate:

Provided further that at the polling station or place of counting of votes either the candidate or his election agent can be present at a time.

(2) The candidate may revoke the appointment of his election agent at any time for which a notice in writing shall be given by him to the Returning Officer/Assistant Returning Officer or Presiding Officer as the case may be.

25. No person other than such persons whose names are for the time being entered in the electoral roll of the constituency shall be entitled to cast his vote at an election and no person shall vote more than once, notwithstanding that his name may have been entered in the electoral roll for the constituency more than once.

Right to vote.

26. Immediately before the commencement of the poll, the Presiding Officer shall, after writing the name of the candidate on the symbol allotted to him, affix the same, both inside and outside the ballot box and thereafter show the empty box to such persons as may be present at the polling station. He shall thereafter, close all the ballot boxes in such a way that the slit of each box remains open for inserting ballot papers and affix his seal as well as the seal of the candidate(s) or their election agents desirous of doing so. The ballot boxes so prepared shall in respect of all the candidates then be placed in the voting compartment side by side in the same order in which the names of the contesting candidates appear in the list prepared under rule 16 and in such manner that the front vertical side of each of the boxes bears a symbol assigned to the candidate to whom the ballot box has been allotted. The candidates or their election agents shall be allowed to see before the commencement of the poll that the boxes are placed in the proper order and no other receptacle or box, besides the ballot boxes allotted to the candidates, has been kept inside the voting compartment.

Procedure before commencement of poll.

27. The poll shall commence and close at the time fixed for this purpose under rule 12:

Commencement and close of poll.

Provided that all the electors present at the polling station before the close of the poll shall be entitled to cast their votes.

28. The Presiding Officer shall regulate the number of electors to be admitted at any one time inside the polling station and shall exclude therefrom all persons other than:—

Admission to a polling station.

- (a) Polling Officers;
- (b) candidates, their agents;
- (c) persons authorised by the Deputy Commissioner;
- (d) public servants on duty in connection with election;
- (e) a child in arms accompanying an elector, companion of blind or infirm elector who cannot move without help; and
- (f) Director of Elections (Local Bodies) or such other persons as may be authorised by him.

29. (1) As soon as the elector enters the polling station, the Polling Officer in charge of the electoral roll shall ascertain the elector's name and address and such other particulars as appear on the electoral roll of the constituency by reading the same loudly so that the candidates or their agents may listen the particulars, and if there is no challenge, as regard to the identity of the electors the Presiding Officer in charge of the ballot papers

Voting procedure.

shall supply to the elector such number of ballot papers as may be the number of seats to be filled in the constituency. The Presiding Officer in charge of the ballot papers shall at the time of delivery of the ballot paper, or papers place against the entry relating to the elector the serial number(s) of such ballot paper or papers.

(2) No other person at the polling station shall note down the serial number(s) of the ballot paper or papers issued to a particular elector.

(3) After receiving the ballot paper or papers, the elector shall enter the voting compartment, where candidate-wise ballot boxes are placed, and shall insert in the box or boxes of the candidate or candidates for whom he wishes to vote, the ballot paper or papers through the slit of the box or boxes provided for this purpose, and immediately after casting his vote shall quit the voting compartment. No voter shall remain inside the compartment for more than the time reasonably required to cast his vote.

Casting of
vote by
blind or
infirm vo-
ters.

30. If, owing to blindness or other infirmity, a voter is unable to recognise the name and symbol on a ballot box or is physically incapable of putting the ballot paper into a ballot box, the Presiding Officer shall enter the voting compartment with such voter, ascertain from him the candidate in whose favour he desires to vote and shall put the ballot paper in the ballot box of such candidate in accordance with the wishes of such an elector. The Presiding Officer shall have this done with as much secrecy as is feasible in each case and shall keep a brief record of every such instance without indicating the manner in which the vote has been cast.

Challenged
votes.

31. Where the identity of a person intending to cast his vote has been challenged by the candidate or his agent, the Presiding Officer shall make suitable enquiry and if he is satisfied with correctness of the fact of challenge, will not allow such person to cast his vote. The Presiding Officer shall in every case, whether or not the person challenged is allowed to vote, make a note of the circumstances in the list of challenged votes in Form VIII.

Spoilt and
returned
ballot pa-
pers.

32. (1) An elector, who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on returning it to the Presiding Officer and on satisfying him of the inadvertence, be given another ballot paper, and the ballot paper so returned shall be marked "Spoilt: Cancelled" by the Presiding Officer.

(2) If an elector after obtaining a ballot paper, decides not to use it, he shall return it to the Presiding Officer and the ballot paper so returned shall be marked as "Returned: Cancelled" by the Presiding Officer.

(3) All ballot papers cancelled under sub-rule (1) or sub-rule (2) shall be kept in a separate packet.

Presiding
Officer's
entry into
Voting Com-
partment du-
ring poll.

33. (1) The Presiding Officer may, whenever he considers it necessary to do so, enter the voting compartment during poll and take such steps as may be necessary to ensure that the ballot boxes therein are not tampered or interfered in any way.

(2) If the Presiding Officer has reason to suspect that an elector who has entered the voting compartment is tampering or otherwise interfering with any ballot box or has remained inside the voting compartment unduly long, he shall enter the voting compartment and take such steps as may be necessary to ensure the smooth and prompt progress of the poll.

(3) Whenever the Presiding Officer enters the voting compartment under this rule he shall permit the candidates or agents present, to accompany him.

34. (1) If any ballot paper which has been issued to an elector has not been inserted by him into any ballot box but is found anywhere in or near the polling station or inside or outside the voting compartment, it shall be deemed to have been returned to the concerned Presiding Officer under sub-rule (2) of rule 32 and dealt with accordingly.

Disposal of ballot papers found wholly or partly outside ballot boxes.

(2) If a ballot paper is found partly inserted into the ballot box of a candidate, it shall be presumed that the intention of the elector was to cast that vote for that candidate and the Presiding Officer shall accordingly push the ballot paper into the ballot box.

35. The Presiding Officer, at the conclusion of the poll, shall keep in separate cover, which shall be sealed, the following papers:—

Sealing of record.

- (1) marked copy of electoral roll;
- (2) other copies of electoral rolls;
- (3) list of challenged votes;
- (4) ballot paper account;
- (5) unused ballot papers;
- (6) cancelled ballot papers including returned ballot papers; and
- (7) other miscellaneous record prepared by the Presiding Officer including appointment of agents etc., or as directed by the Director of Elections (Local Bodies).

36. (1) If at an election the proceedings at any polling station are interrupted or obstructed by riot or open violence, or if at an election it is not possible to take the poll at any polling station on account of any natural calamity or any other sufficient cause, the Returning Officer/Assistant Returning Officer shall announce an adjournment of the poll to a date to be notified later and shall forthwith send a report to the Deputy Commissioner.

Adjournment of poll in emergencies.

(2) Where a poll is adjourned under sub-rule (1) the Deputy Commissioner shall, as soon as may be, appoint the day on which the poll shall re-commence and fix the polling station at which and the hours during which, the poll shall be taken and the votes cast at such election shall not be counted until such adjourned poll is completed.

(3) In every such case as aforesaid, the Deputy Commissioner shall affix a notice specifying the date, place and hours of polling fixed under sub-rule (2) at his office, tehsil office, Gram Sabha and other conspicuous places as may be considered fit.

37. (1) If at any election any ballot box or boxes is or are unlawfully taken out of the custody of the Presiding Officer or Polling Officer or is or are in any way tampered with, or is or are either accidentally or intentionally destroyed, lost or damaged, the polling at that polling station to which such ballot box or boxes relate shall be liable to be declared as void.

Fresh poll in the case of destruction etc. of ballot boxes.

(2) Whenever the polling at any polling station becomes liable to be declared as void under sub-rule (1), the Presiding Officer shall, as soon as practicable after the act or event causing such voidance has come to his knowledge, report the matter to Returning Officer/Assistant Returning Officer who shall in turn report the matter to the Deputy Commissioner immediately, who in the event of his being so satisfied that in consequence thereof the result of the poll of that polling station cannot be ascertained, declare the election void and shall appoint day for the taking of fresh poll

in such or every such polling station and the hours during which the poll will be taken and shall not count the votes cast at such election until such fresh poll has been completed.

(3) The provision of these rules shall apply to every such fresh poll as they apply to the original poll.

PART IV

COUNTING OF VOTES AND DECLARATION OF RESULTS

Procedure before commencement of counting.

38. In accordance with the date and time specified for the counting of votes in the election programme under rule 12, the Returning Officer/Assistant Returning Officer, shall start the counting of votes under the rules provided hereinafter for the purpose.

Admission to the place of counting.

39. No other person except the following shall be allowed inside the place of counting:—

- (i) officers and staff who are required to assist the Returning Officer/Assistant Returning Officer during the counting of votes;
- (ii) persons authorised by the Director of Elections (Local Bodies) or the Deputy Commissioner;
- (iii) public servant on duty in connection with the elections; and
- (iv) candidates or their election agents:

Provided that any of the election agent may be required, by the Returning Officer/Assistant Returning Officer for his satisfaction, to produce before him the appointment letter made by the candidate under rule 24.

Procedure for counting of votes.

40. (1) The Returning Officer/Assistant Returning Officer before starting the counting shall arrange the ballot boxes in the same order as the names of the candidates appear in the list of contesting candidates and then act in the following manner:—

- (i) Take out the ballot box of the candidate according to their serial number and allow an opportunity to candidates or their election agents to inspect the ballot box and the seals to satisfy themselves that they are intact.
- (ii) After each ballot box is opened, the candidates or election agents who may be present shall be allowed to inspect the ballot box and satisfy themselves that it bears the proper symbol inside the ballot box.
- (iii) If any question arises as to the candidate to whom a particular ballot box was allotted at the poll, the Returning Officer/Assistant Returning Officer shall decide such question by a reference to symbol inside the box.
- (iv) The ballot papers in each box will be taken out and the empty ballot box be shown to the candidates or election agents for their satisfaction that no ballot paper has been left in the box.
- (v) The ballot papers taken out of each box shall be arranged properly and scrutinized.

(2) The Returning Officer/Assistant Returning Officer shall reject a ballot paper:—

- (i) if it bears any mark or writing by which the elector can be identified; or
- (ii) if it is a spurious ballot paper; or

- (iii) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or
- (iv) if it bears a serial number and design, different from the serial number and design authorized for use at the particular polling station:

Provided that where the Returning Officer/Assistant Returning Officer is satisfied that any such defect as is mentioned in clause (iv) has been caused by any mistake or failure on the part of the Presiding Officer or Polling Officer, the ballot paper shall not be rejected merely on the ground of such defect:

Provided further that where more than one seat in a constituency is to be filled, the ballot paper of the same series and same serial number if found in one ballot box of a candidate, only one such ballot paper shall be treated valid and all the remaining such ballot papers shall be rejected.

(3) Before rejecting any ballot paper under sub-rule (2), the Returning Officer/Assistant Returning Officer shall allow the candidates or election agents present, a reasonable opportunity to inspect the ballot paper but shall not allow them to handle it or any other ballot paper.

(4) The Returning Officer/Assistant Returning Officer shall endorse on every ballot paper which he rejects the word "Rejected" and the grounds of rejection in brief in his own hand and shall initial the same.

(5) All ballot papers taken out of any one ballot box and rejected under this rule shall be made into a separate bundle.

✶ (6) Every ballot paper which is not rejected under this rule shall be counted as one valid vote.

(7) After counting of all the votes of a candidate is completed, the Returning Officer/Assistant Returning Officer shall fill in Part II—Result of counting in Form VII against the name of the candidate.

(8) After completing the counting of votes of all candidates in a constituency, the Returning Officer/Assistant Returning Officer shall sign the ballot paper account.

41. (1) The Returning Officer/Assistant Returning Officer after signing the ballot paper account, shall announce the total number of votes secured by each candidate and pause for a while.

Recount of votes.

(2) After such announcement has been made, a candidate or in his absence his election agent may apply in writing to the Returning Officer/Assistant Returning Officer for a recount of all or any of the ballot papers already counted stating the grounds on which he demands such a recount.

(3) On such an application being made, the Returning Officer/Assistant Returning Officer shall decide the matter and may allow the application in whole or in part or may reject it in toto, if it appears to him to be frivolous or un-reasonable, and the decision of the Returning Officer/Assistant Returning Officer in this behalf shall be in writing and contain reasons therefor.

(4) If the Returning Officer/Assistant Returning Officer decides under sub-rule (3) to allow an application either in whole or in part, he shall count the ballot papers again in accordance with his decision; amend Part II of the ballot paper account, to the extent, if necessary, after such a recount; and announce the amendment so made by him.

(5) The Returning Officer/Assistant Returning Officer shall thereafter complete and sign the declaration in Part III of the ballot paper account and no application for any recount shall be entertained thereafter.

Declaration of result.

42. The Returning Officer/Assistant Returning Officer shall, on the basis of the ballot paper account, fill in the declaration in Form VI and declare elected the candidate or candidates according to the number of seat or seats fixed for election of the constituency who is/are found to have secured the largest number of valid votes. A copy of the declaration, duly signed, shall be sent to the Deputy Commissioner as soon as possible. One copy of the ballot paper account in Form VII, duly signed, shall be affixed conspicuously at the place of counting:

Provided that where an equality of votes is found to exist between any candidates and the addition of one vote will entitle a candidate to be declared elected, the Returning Officer/Assistant Returning Officer shall forthwith decide by lot and proceed as if the candidate on whom the lot falls, has received an additional vote.

Sealing of record after declaration.

43. (1) After the result is declared, the Returning Officer/Assistant Returning Officer shall keep candidate-wise valid and rejected ballot papers, and ballot paper account in separate packets outside of which the particulars of such a document shall be recorded, i.e. name or number of the constituency alongwith the name of the Panchayat Samiti, place and date of counting and shall be sealed with his seal. On each packet containing the valid, and rejected ballot papers the name of the candidate concerned shall also be recorded:

Provided that the packet containing the valid and rejected ballot papers shall also be allowed to be sealed with the seal of candidates or election agents who may desire to do so.

(2) The Returning Officer/Assistant Returning Officer shall then place together all the packets made-up under sub-rule (1) in respect of each candidate containing valid and rejected ballot papers in one packet which shall be sealed by his seal or with the seals of candidates or election agents who may desire to do so. This packet shall contain the serial number and the name of the constituency, name of Panchayat Samiti, the names of the candidates and the place and date of counting.

Delivery of election papers.

44. The Returning Officer/Assistant Returning Officer shall after completion of election, deliver all record relating to elections of all the constituencies of a Panchayat Samiti to the Deputy Commissioner or any other person authorised by him in writing for this purpose.

Notification of election.

45. The Deputy Commissioner on receipt of declarations in Form VI shall compile and notify the names of the elected members from the constituencies of a Panchayat Samiti which shall be published in Official Gazette as required under section 68(1) of the Act.

Administration of oath.

46. As soon as the names of the elected members of a Panchayat Samiti are notified, the Deputy Commissioner or any other officer authorised by him for this purpose, shall convene under his Chairmanship a meeting in which the administration of oath/affirmation of allegiance shall be administered to all the elected members in accordance with section 68(1) of the Act:

Provided that no such meeting shall be held unless not less than 48 hours notice for holding such a meeting has been given to all the elected members by its delivery at their ordinary place of residence and such a notice shall specify the place, date and time for holding such a meeting:

Provided further that if a person is elected from more than one constituency of a Panchayat Samiti, an oath/affirmation shall be administered to him only after he tenders his notice of resignation from more than one such constituency. The notice of resignation in such cases addressed to the Deputy Commissioner shall be tendered either personally to the Deputy Commissioner, immediately after the election or delivered to the officer presiding over the meeting fixed for the administration of such an oath/affirmation, who shall forward the same to the Deputy Commissioner concerned with his report. If, however, such person does not tender his notice of resignation either personally to the Deputy Commissioner or present it to the officer presiding over such a meeting, he shall address and submit the same personally to the Chairman, who may be presiding over the subsequent meeting of the Panchayat Samiti. In all such cases the fact shall be recorded in the register of proceedings.

PART V

ELECTION OF CHAIRMAN AND VICE-CHAIRMAN

47. The Deputy Commissioner or any other Gazetted Officer authorised by him for the purpose shall fix date, time and place for holding a meeting for the election of Chairman of a Panchayat Samiti after giving proper notice of 48 hours, in the same manner as is provided under rule 46, to all its elected and co-opted members. The notice shall be issued only after the names of all the elected and co-opted members of a Panchayat Samiti are notified in the Gazette in accordance with the provisions of section 68(1) of the Act. The oath/affirmation of allegiance, if not administered earlier to the elected and co-opted members, shall also be administered to such members in such a meeting before proceeding with the election of a Chairman.

Notice for election.

48. For holding election of a Chairman in a meeting fixed for the purpose under rule 47, half of the total number of elected and co-opted members of a Panchayat Samiti shall constitute the quorum:

Quorum for meeting.

Provided that if such a meeting is adjourned for want of requisite quorum, the second meeting will be held after giving due notice of 48 hours to all the elected and co-opted members and in such a meeting no quorum shall be required and the election of Chairman shall be held.

49. The Chairman shall be elected by the primary and co-opted members of a Panchayat Samiti from amongst themselves by secret ballot in the manner prescribed hereunder:—

Voting procedure at election of Chairman.

(i) If only one candidate for the office is proposed, the officer presiding over the meeting shall declare such a candidate elected for the office of Chairman.

(ii) If there are two or more candidates, the officer presiding over the meeting shall prepare a list of contesting candidates in Form V appended to these rules, in alphabetical order, in Hindi, in devnagari script, and shall allot one symbol according to the serial number in the list of contesting candidates and in accordance with the serial number of such symbol prescribed under rule 7. A

copy of the list showing the names of contesting candidates and the symbol allotted to each such candidate shall be displayed at a conspicuous place, for the information of the members. The poll shall commence and close at such hours as may be fixed and announced by the officer presiding over the meeting. The voting at such an election shall be held by secret ballot and the ballot papers and ballot box to be used at the election shall be of such form/design as may be prescribed by the Director of Elections (Local Bodies), Himachal Pradesh.

(iii) The procedure of voting at such an election shall be as under:—

- (a) Before issuing the ballot paper to a voter, the officer presiding over the meeting shall put his signatures, in full, on the back of each ballot paper and proper account thereof shall be kept.
- (b) The voter on receipt of the ballot paper shall enter the voting compartment set up for the purpose and insert the ballot paper in the ballot box of the candidate to whom he wishes to vote. After casting his vote, the voter shall quit the voting compartment without any delay.
- (c) Inside and outside of each ballot box to be prepared for polling in the usual manner, a poster containing the name of a candidate and his symbol shall be pasted before the same is placed inside the voting compartment. In case of an infirm or blind voter, the officer presiding over shall assist the voter in casting his vote with due secrecy. The officer presiding over the meeting may enter the voting compartment at any time if he doubts tampering with the ballot boxes inside the voting compartment or thinks it necessary, otherwise, in the interest of smooth conduct of the poll.
- (d) the spoilt and returned ballot papers at such an election shall be dealt with in the same manner as is prescribed in rule 32.

Counting
of votes at
election of
chairman.

50. After the voting is completed, the officer presiding over the meeting shall cause to take out the ballot boxes from the voting compartment and, after satisfying the candidates that the same are intact, shall count the votes found in the ballot box of each candidate in the manner as prescribed in rule 40. On completion of the counting of votes in respect of all the ballot boxes of the contesting candidates, the officer presiding over the meeting shall compile the result and declare the candidate elected for the office of Chairman, in whose favour the highest number of votes have been cast:

Provided that if equality of votes is found between the candidates, the officer heretofore referred in this chapter as the officer presiding shall decide the election by lot.

(2) After the result is declared, the officer presiding over the meeting shall keep candidate-wise valid and rejected ballot papers relating to the election in separate packets, outside which the full particulars of such documents shall be recorded and the packets sealed with his seal. All other papers relating to the election shall also be kept in separate packets and the contents of each such packet shall be recorded thereupon. The officer presiding over the meeting shall, after completion of the election, deliver the entire record relating to such an election to the Deputy Commissioner or any other person authorised by him, in writing, for this purpose.

51. After the election of Chairman is completed, the officer presiding over the meeting shall record the proceedings in the register maintained by the Panchayat Samiti and he shall sign the same. Such proceedings shall then be countersigned by the Chairman. A copy of these proceedings shall also be sent to the Deputy Commissioner concerned.

Proceedings of the meeting of election of Chairman.

52. After the election of Chairman of a Panchayat Samiti is notified in the Official Gazette, a meeting of the primary and co-opted members of that Samiti shall be convened by the Deputy Commissioner or any Gazetted Officer authorised by him in this behalf, for holding the election of Vice-Chairman from amongst themselves. A notice specifying the date, time and place of holding such a meeting shall be issued in the manner, as prescribed in rule 46. In this meeting, the Deputy Commissioner or the officer so appointed shall administer the oath/affirmation, as required under section 68(1) of the Act, to the elected Chairman. Thereafter, the meeting shall be presided over by the Chairman and the election of Vice-Chairman held in the manner prescribed under rules 48, 49 and 50 of this chapter:

Election of Vice-Chairman.

Provided that the election of Vice-Chairman shall be held under the supervision of the Deputy Commissioner or the officer appointed by him.

53. After the election of Vice-Chairman is completed, the officer under whose supervision the election has been held shall draw up proceedings of the meeting in the register maintained by the Panchayat Samiti and shall sign the same. Such proceedings shall then be countersigned by the Chairman and the elected Vice-Chairman. A copy of these proceedings shall also be sent to the Deputy Commissioner concerned.

Proceedings of the meeting of election of Vice-Chairman.

54. The Deputy Commissioner shall notify the election of the Chairman/Vice-Chairman which shall be published in the Official Gazette as soon as he receives the proceedings of the meeting referred to in rule 51 or rule 53, as the case may be.

Notification of election of Chairman/Vice-Chairman.

PART VI GENERAL

55. When a vacancy occurs among the primary members of a Panchayat Samiti by death, resignation or otherwise and a new member has to be elected in his place in accordance with the provisions of section 70 of the Act, such election shall be conducted in the manner as prescribed in these rules for a general election and the programme of election shall be framed as soon as may be convenient, after the occurrence of the vacancy.

Filling up of casual vacancies.

56. The Deputy Commissioner shall make suitable arrangements and provide necessary security to maintain law and order at each polling station/place of counting. Such security staff provided at the polling station/place of counting shall act under the directions and control of the Presiding Officer/Returning Officer/Assistant Returning Officer. The Presiding Officer/Returning Officer/Assistant Returning Officer shall be responsible for the maintenance of law and order within the limits of the polling station/place of counting. Any person, who creates any interruption during the polling/counting or misbehaves or does not abide by the directions of the Presiding Officer/Returning Officer/Assistant Returning Officer, is liable for expulsion from such a place.

Maintenance of law and order.

Prohibition of canvassing in or near polling stations.

57. No person shall, 12 hours before the commencement of the poll and during the polling hours on the date on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a radius of one hundred metres of the polling station:—

- (a) canvassing for votes; or
- (b) soliciting the vote of any elector; or
- (c) persuading any elector not to vote for any particular candidate; or
- (d) persuading any elector not to vote at the election; or
- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

Superintendence, control and direction.

58. The Panchayat Samiti elections shall be conducted under the superintendence and control of the Director of Elections (Local Bodies), Himachal Pradesh. He shall issue such directions in this behalf as he may consider appropriate. In case there is any doubt or dispute regarding interpretation of these rules, the same shall be referred to the Director of Elections (Local Bodies), Himachal Pradesh and his decision shall be final.

Requisitioning of premises, vehicles etc. for election purposes.

59. If it appears to the Deputy Commissioner that in connection with an election held within his jurisdiction—

- (a) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken, or
- (b) any vehicle, vessel or animal is needed or is likely to be needed for the purpose of transport of ballot boxes, police force for maintaining order during the conduct of such election or transport of any officer or other person for the performance of any duties in connection with such election;

the Deputy Commissioner may by an order, in writing, requisition such premises, or such vehicle, vessel, or animal, as the case may be, and may make such further orders as may appear to him to be necessary or expedient in connection with the requisitioning of the same.

Custody, production and inspection of election papers.

60. (1) The Deputy Commissioner or any other officer authorised by him for this purpose shall keep in safe custody the packets of unused ballot papers, the packets of used ballot papers whether valid, or rejected and all other papers relating to Panchayat Samiti elections. While in the custody of the Deputy Commissioner or the officer authorised by him—

- (a) the packets of unused ballot papers;
- (b) the packets of used ballot papers valid or rejected; and
- (c) the packets of marked copy of the electoral roll;

shall not be opened and their contents shall not be inspected by, or produced before, any person or authority except under the order of the prescribed authority for election petitions.

(2) All other papers relating to the election shall be open to public inspection and any person may apply for such inspection or supply of certified copy thereof on payment of a fee at the same rate as is charged in Himachal Pradesh for the inspection of documents forming part of a record of a case dealt with by a Revenue Officer or for the supply of a copy of an order by a Revenue Officer, as the case may be, and

Such copies shall be supplied in accordance with the procedure to be followed for a similar application in respect of a case dealt with by a Revenue Officer.

61. The packets of unused ballot papers, the packets of used ballot papers whether valid or rejected and all other papers relating to the elections shall be retained in safe custody until the expiry of one year from the date of publication of the result of election and thereafter be disposed of under the orders of Deputy Commissioner in such a manner as he may deem fit:

Preservation and disposal of election papers.

Provided that if an election petition is filed, the packets and other papers referred to in the rule relating to such an election shall not be destroyed unless the petition is finally disposed of.

PART VII ELECTION PETITIONS

62. In this chapter, unless the context otherwise requires—

Definitions.

- (a) 'agent' means any person appointed in writing by a candidate at an election to be his agent for the purpose of his election with the written consent of such person;
- (b) 'candidate' means a person who has been or claims to have been duly nominated as a candidate at an election, and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate;
- (c) 'corrupt practice' means any of the practices specified in rule 77;
- (d) 'costs' means all costs, charges and expenses of, or incidental to, a trial of an election petition;
- (e) 'election' means an election to fill the office of Chairman/Vice-Chairman/Member of a Panchayat Samiti;
- (f) 'electoral right' means the right of a person to stand or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election;
- (g) 'pleader' means any person entitled to appear and plead for another in a civil court and includes an advocate.

63. (1) The election petition under section 187 of the Act shall be presented to the Deputy Commissioner, of the district heretofore referred as the 'prescribed authority' under whose territorial jurisdiction the Panchayat Samiti area is situated, within twenty days of the date of announcement of the result of an election. The time for the presentation of an election petition under the aforesaid section shall be reckoned from the date of declaration of result under rule 18 or rule 42 or rule 49(1) or rule 50 or rule 52, as the case may be.

Presentation of election petition.

(2) The petitioner shall enclose with the petition copies of the petition and of its enclosures equal to the number of respondents.

64. (1) An election petition—

Contents of petition.

- (a) shall contain concise statement of the material facts on which the petitioner relies;

- (b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and
- (c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings:

Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

(2) The affidavit referred to in the proviso to rule 64 shall be in Form IX and shall be sworn before a Magistrate or Commissioner of Oaths.

Security deposit to be made with the petition.

65. At the time of presenting an election petition, the petitioner shall deposit a sum of Rs. 200 as security money in the Government Treasury or Sub-Treasury under the appropriate head of account in the name of the Deputy Commissioner to whom the petition is presented or caused to be presented.

Dismissal of petition.

66. If, in presenting the petition, the provisions of section 187 of the Act or rule 63, rule 64 or rule 65 are not complied with, the prescribed authority shall dismiss the petition, provided that the petition shall not be dismissed without giving the petitioner an opportunity of hearing.

Withdrawal of petition.

67. (1) An election petition may be withdrawn by the petitioner only by leave of the Deputy Commissioner to whom the petition has been presented.

(2) When an application for withdrawal is made, a notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published by being posted at the office of the Deputy Commissioner and at the Panchayat Samiti office.

(3) No application for withdrawal shall be granted, if, in the opinion of the Deputy Commissioner, such an application has been induced by any bargain or consideration which ought not to be allowed.

(4) If the application is granted—

(a) the security deposit shall be forfeited to the Panchayat Samiti concerned;

(b) notice of the withdrawal shall be published by being posted at the office of the Deputy Commissioner and at the Panchayat Samiti office.

Place and procedure of enquiry.

68. (1) The place of enquiry shall be the headquarters of the Deputy Commissioner concerned to whom the petition is made:

Provided that the Deputy Commissioner concerned may on being satisfied that special circumstances exist rendering it desirable that the enquiry should be held elsewhere, fix some other convenient place for this purpose.

(2) The public shall have free access to the place where the enquiry into an election petition may be held.

(3) Notice of the time and place of enquiry shall be given to the parties not less than seven days before the first date of the hearing.

(4) Subject to the provisions of the Act and the rules, contained in this chapter, where an election petition has not been dismissed under rule 66, every election petition be enquired into expeditiously in accordance with the procedure applicable under the Code of Civil Procedure, 1908, for the trial of suits, and at the conclusion of the inquiry the prescribed authority shall make an order—

- (a) setting aside the said election, if it finds that a failure of justice has occurred;
- (b) dismissing the petition and ordering the security to be forfeited to the Panchayat Samiti, if it finds that the petition is false, frivolous or vexatious.

(5) At the time of making an order under sub-rule (4), the prescribed authority shall also make an order—

- (a) where any charge is made in the petition of any corrupt practice having been committed at the election, recording—
 - (i) a finding whether any corrupt practice has or has not been proved to have been committed at the election and the nature of that corrupt practice; and
 - (ii) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice.

69. The prescribed authority shall have the powers which are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters:—

- (a) discovery and inspections;
- (b) enforcing the attendance of witnesses and requiring the deposit of their expenses;
- (c) compelling the production of documents;
- (d) examining witnesses on oath;
- (e) granting adjournments;
- (f) reception of evidence taken on affidavit; and
- (g) issuing commissions for the examination of witnesses;

and may summon and examine *suo moto* any person whose evidence appears to it to be material, and shall be deemed to be a Civil Court within the meaning of section 480 and 482 of the Code of Criminal Procedure, 1898.

Explanation.—For the purpose of enforcing the attendance of witnesses, the local limits of the jurisdiction of the prescribed authority shall be the limits of the entire State of Himachal Pradesh.

70. Notwithstanding anything contained in any enactment to the contrary, no documents shall be inadmissible in evidence at the trial of an election petition on the ground that it is not duly stamped or registered.

71. No witness or other person shall be required to state for whom he has voted at an election.

72. (1) No witness shall be excused from answering any question to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture;

Power of the prescribed authority.

Documentary evidence.

Secrecy of voting not to be infringed.

Answering of criminal questions and certificate of indemnity.

Provided that:—

- (a) a witness who answers truly all questions, which he is required to answer shall be entitled to receive a certificate of indemnity from the prescribed authority; and
- (b) an answer given by a witness to a question put by or before the prescribed authority shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against him in any civil or criminal proceeding.

(2) When a certificate of indemnity has been granted to any witness, it may be pleaded by him in any Court and shall be a full and complete defence to or upon any charge under chapter IX-A of the Indian Penal Code, 1860, arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by this Act or any other law.

Expense of witnesses.

73. The reasonable expenses incurred by any person in attending to give evidence may be allowed by the prescribed authority to such person.

Grounds for setting aside elections.

74. (1) If the prescribed authority is of the opinion—

- (a) that on the date of his election the elected person was not qualified or was disqualified to be elected under this Act; or
- (b) that any corrupt practice has been committed by the elected person or his agent or by any other person with the consent of the elected person or his agent; or
- (c) that any nomination has been improperly rejected; or
- (d) that the result of the election, in so far as it concerns the elected person, has been materially affected—
 - (i) by the improper acceptance of any nomination; or
 - (ii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void; or
 - (iii) by any non-compliance with the provisions of the Act or of any rules made under the Act; the prescribed authority shall set aside the election of the elected person.

(2) When an election has been set aside under sub-rule (1), a fresh election shall be held.

Abatement of election petitions.

75. An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.

Corrupt practices entailing disqualifications.

76. The corrupt practices specified in rule 77 shall entail disqualification for membership of Panchayat Samiti for a period of five years counting from the date on which the finding of the prescribed authority as to such practice has been given:

Provided that the Government may, for reasons to be recorded, remove the disqualification or reduce the period thereof.

Corrupt practices.

77. The following shall be deemed to be corrupt practices for the purposes of this chapter:—

(1) Bribery, that is to say,—

- (A) any gift, offer or promise by candidate or his agent or by any other person with the consent of a candidate or his agent of any gratification, to any person whomsoever, with the object,

- directly or indirectly of inducing—
- (a) a person to stand or not to stand as, or to withdraw from being a candidate at an election; or
 - (b) a voter to vote or refrain from voting at an election; or as a reward to—
 - (i) a person for having so stood or not stood, or for having withdrawn his candidature; or
 - (ii) a voter for having voted or refrained from voting;
 - (B) the receipt of, or agreement to receive any gratification, whether as a motive or a reward—
 - (a) by a person for standing or not standing as, or for withdrawing from being, a candidate; or
 - (b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any voter to vote or refrain from voting, or any candidate to withdraw his candidature.

Explanation.—For the purposes of this clause, the term 'gratification' is not restricted to pecuniary gratification or gratifications estimable in money but it includes all forms of entertainment and all forms of employment for reward and it does not include the payment of any expenses bonafide incurred at, or for the purpose of election.

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his agent, with the free exercise of any electoral right:

Provided that—

- (a) without prejudice to the generality of the provisions of this clause, any such person as is referred to therein who—
 - (i) threatens any candidate or a voter, or any person in whom a candidate or such member is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or
 - (ii) induces or attempts to induce a candidate or a voter to believe that he, or any person in whom he is interested will become or will be rendered an object of divine displeasure or spiritual censure; shall be deemed to interfere with the free exercise of the electoral right of such candidate or a voter within the meaning of this clause;
- (b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to, religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(4) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(5) The publication by a candidate or his agent or by any other person, with the consent of a candidate or his agent, or any statement of fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal, of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(6) The hiring or procuring, whether on payment or otherwise, of any vehicle by a candidate or his agent or by any other person with the consent of a candidate or his agent, for the conveyance of any voter (other than the candidate himself, the members of his family or his agent) to or from any polling station or a place fixed for the poll.

Explanation.—In this clause, the expression 'vehicle' means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent, or by any other person with the consent of a candidate or his agent, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the Government, the Government of India or the Government of any other State or a local authority.

Repeal.

78. The Himachal Pradesh Panchayat Samiti (Election) Rules, 1970, are hereby repealed:

Provided that any direction, given or order made or action taken under the rules so repealed shall be deemed to have been made under the corresponding provisions of these rules to the extent it is not inconsistent with these rules.

FORM I

(See rule 4)

PANCHAYAT SAMITI ELECTORAL ROLL 19 .

Name of Constituency.....

Name of Panchayat Samiti.....

Name of District.....

Serial No.	Name of Gram Panchayat	Name of elector along with name or number of Ward/Co-opted.
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FORM II

NOTICE OF ELECTION PROGRAMME

[See rule 12(2)]

Notice is hereby given that—

- (1) an election is to be held for electing Primary Members from each of the constituencies of the Panchayat Samitis shown in the Table given below;
- (2) nomination paper may be delivered by a candidate or his proposer on any day (other than a public holiday) to the officer appointed as Returning Officer/Assistant Returning Officer and shown in the Table and at the place, date and time mentioned in the said Table given below:—

TABLE

.....(Tehsil) of(District).

Serial No.	Name of Panchayat Samiti.	Name or No. of the Constituency.	Number of Primary Members to be elected.	Officer before whom nomination papers may be presented.	Place.	Date.	Time.
1	2	3	4	5	6	7	8

- (3) form of nomination paper may be obtained from the respective Gram Panchayat Office or from the officer specified in column 5 and at the place and time specified in columns 6 and 8 of the Table above;
- (4) the nomination papers will be taken up for scrutiny by the officer specified in column 5 and at the place specified in column 6 of the Table above at.....(hours) on.....(date);
- (5) notice of withdrawal of candidature may be delivered by a candidate or his proposer duly authorised in writing by the candidate for the purpose to the officer specified in column 5 and at the place specified in column 6 of the Table above upto.....(hours) on.....(date);

- (6) the symbol to the contesting candidates shall be allotted by the officer specified in column 5 of the Table above immediately after the expiry of time fixed for the withdrawal of candidatures and the list of contesting candidates will be affixed outside his office;
- (7) in the event of election being contested, the poll and counting of votes will take place in accordance with the programme given in the Table below. The poll will be taken between the hours of.....to.....;

TABLE

.....(Tehsil) of.....(District).

Serial No.	Name of Block/ Panchayat Samiti.	Name or No. of the Constituency.	Number of Primary Members to be elected.	Date of Poll.	Place of counting.	Date and time of counting.
1	2	3	4	5	6	7

- (8) the result will be declared immediately after the completion of counting.

Place.....

Deputy Commissioner.

Date.....

FORM III

NOMINATION PAPER

[See rule 13(2)]

Election to the Panchayat Samiti from.....(Constituency) of.....(Block) in.....(District).

I nominate as a candidate for election of a Primary Member to the above constituency:

Candidate's name.....

Father's or Husband's name.....

Postal address.....

His name is entered at serial No.....in the electoral roll forconstituency.

My name is entered at serial No.....in the electoral roll forconstituency.

Date.....

Signature of proposer

I,the above mentioned candidate, assent to this nomination and hereby declare that:—

(a) I have completedyears of age;

*(b) I further declare that I am a member of the.....caste/tribe which is a Scheduled Caste or Scheduled Tribe of the Stat .

Date.....

Signature of candidate.

*Strike off if not appropriate.

(To be filled in by the Returning/Assistant Returning Officer)

Serial No. of nomination paper.....

This nomination paper was delivered to me at.....(place) at.....(hours) on.....(date).. by the.....candidate/proposer.

Date.....

Returning/Assistant Returning Officer.

*Score out the words not applicable.

(Decision of the Returning/Assistant Returning Officer accepting or rejecting the nomination papers).

I have examined this nomination paper in accordance with law and decide as follows:—

Date.....

Returning/Assistant Returning Officer.

The nomination paper of the above candidate has neither been rejected nor he has withdrawn his candidature and therefore:—

.....(Name of symbol) is hereby allotted.

Date.....

Returning/Assistant Returning Officer.

RECEIPT FOR NOMINATION PAPER AND NOTICE OF SCRUTINY AND WITHDRAWAL

(To be handed over to the person presenting the nomination paper)

Serial No. of nomination paper.....

The nomination paper of.....a candidate for election from.....constituency of.....Block delivered to me at my office at.....(hour) on.....(date) by the *candidate/proposer. All nomination papers will be taken up for scrutiny at.....(hour) on.....(date) at.....(place).

The candidature may be withdrawn upto(hour) on.....(date). The symbol will be allotted immediately after the expiry of time fixed for withdrawal.

Date... ..

Returning/Assistant Returning Officer.

*Score out the word not applicable.

FORM IV

NOTICE OF WITHDRAWAL

[See rule 16(1)]

Election to the Panchayat Samiti from.....constituency of
.....Block in.....district.

To

The Returning/Assistant Returning Officer,

.....
.....

I,.....a candidate nominated at the above election do hereby,
give notice that I withdraw my candidature.

Place.....

Date.....

Signature of candidate.

This notice was delivered to me at my office at.....(hour) on.....
(date) by the candidate/proposer as per authority enclosed.

Returning/Assistant Returning Officer.

RECEIPT FOR NOTICE OF WITHDRAWAL

(To be handed over to the person delivering the Notice)

The notice of withdrawal of candidature by.....(name)
a candidate at the election to the Panchayat Samiti from.....
constituency of.....Block was delivered to me by the*
.....at my office at.....(hour) on.....
(date).

Returning/Assistant Returning Officer,

.....
.....

*Here insert one of the following alternatives as may be appropriate:—

(1) Candidate.

(2) Candidate's proposer who has been authorised in writing by the
candidate to deliver it.

FORM V
LIST OF CONTESTING CANDIDATES

[See rule 17(1)]

Election to the Panchayat Samiti from.....
Constituency of.....Block in.....district.

Number of Primary Members to be elected.	Serial No.	Name of candidate.	Address of candidate.	Scheduled caste/tribe.	Symbol allotted.
1	2	3	4	5	6

Place *Returning/Assistant Returning Officer,*
Date
.....

FORM VI

DECLARATION IN *UNCONTESTED/CONTESTED ELECTION

(See rule 18/42)

Declaration of the result of election to the Panchayat Samiti from
.....constituency of.....Block in.....
district.

In pursuance of the provisions contained in rule 18/42 of the Himachal Pradesh Panchayat Samitis Rules, 1973, I declare that—

.....(Name)
.....(Address)
has been duly elected to fill a seat in the Panchayat Samiti from the above
constituency of the above Block.

Place..... (Signature)

Date..... *Returning/Assistant Returning Officer,*
.....
.....

*Strike off which is inappropriate.

FORM VII

[See rules 21(3), 40(7) and 41(5)]

PART I

BALLOT PAPER ACCOUNT

Election to the Panchayat Samiti from theconstituency
of a Block in.....district.

(i) No. and name of polling station.....

(ii) No. of primary members to be elected.....

	Serial numbers	Total numbers
1. Ballot papers received.....		
2. Ballot papers not used.....		
3. Ballot papers issued to voters.....		
4. Ballot papers cancelled.....		
(a) "Spoilt"		
(b) "Returned"		

Date.....

.....
Signature of Presiding Officer.

PART II

RESULT OF COUNTING

Sl. No.	Name of candidate.	Number of Votes		
		Valid.	Rejected.	Total.
1	2	3	4	5
	Polling Station	No.....		
1.				
2.				
3.				
4.				
etc.				
	Total			

1	2	3	4	5
---	---	---	---	---

Polling Station No.....

- 1.
- 2.
- 3.
- 4.
- etc.

Total ..

Polling Station No.....

- 1.
- 2.
- 3.
- 4.
- etc.

Total ..

Candidate-wise total of entire constituency :

- 1.
- 2.
- 3.
- 4.
- etc.

Date.....

Signature of Returning/Assistant Returning Officer.

Strike out the portion which is not required.

PART III

DECLARATION OF RESULT

I declare that:—

.....(name's)
of.....(Address)
has/have been duly elected to fill the seat(s) in the Panchayat Samiti from
the above constituency of the above Block.

Place.....

Date.....

Returning/Assistant Returning Officer.

FORM VIII
CHALLENGED VOTES LIST
(See rule 31)

Election to the Panchayat Samiti fromconstituency
ofBlock indistrict.

Serial No. of entry in the electoral roll.	Name and address.	Signature of voter, if literate or thumb impression of voter, if illiterate.	Name of identifier, if any.	Name of challenger.	Order of Presiding Officer in each case.
1	2	3	4	5	6
1.					
2.					
3.					
4.					
etc.					

Date

Signature of Presiding Officer.

FORM IX
[See rule 64(2)]

I,the petitioner in the accompanying election petition calling in question the election of Shri/Shrimati as Member/Chairman/Vice-Chairman ofPanchayat Samiti from(Constituency) of(Block) respondent No.(in the said petition) make solemn affirmation/oath and say:—

- (a) that the statements made in paragraphsof the accompanying election petition about the commission of corrupt practice ofand the particulars of such corrupt practice mentioned in paragraphsof the same petition and in paragraphsof the Schedule annexed thereto are true to my knowledge;
- (b) that the statements made in paragraphsof the said petition about the commission of the corrupt practice of*and the particulars of such corrupt practice given in paragraphsof the said petition and in paragraphsof the schedule annexed thereto are true to my knowledge.
- (c)
- (d)
- etc.

Signature of deponent.

असाधारण राजपत्र, हिमाचल प्रदेश, 7 अगस्त, 1973/16 श्रावण, 1895 1269

Solemnly affirmed/sworn by Shri/Shrimati.....at this
.....day of.....197 .

Before me

Magistrate of 1st Class/Commissioner of Oaths.

*Here specify the name of the corrupt practice.

By order,
L. TOCHHAWNG,
Secretary.

